IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

OP.No. 6898 of 2000(U)

PETITIONER:

SMT.RAJEEVI, W/O. LATE SARTHOJI RAO
AGE 35 YEARS, MOGRAKANANAM, ADOOR VILLAGE
P.O. URDOOR, KASARAGOD TALUK.

BY ADV. SRI.KODOTH SREEDHARAN

RESPONDENTS:
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1. **SMT.SARASWATHY, W/O. LATE MAHALINGA MANIYANI**
   R/AT CHEDIMOOLE, ADOOR VILLAGE
   P.O. URDOOR, KASARAGOD.

2. **SRI.PADMANABHA, S/O. LATE MAHALINGA MANIYANI**
   R/AT CHEDIMOOLE, ADOOR VILLAGE
   P.O. URDOOR, KASARAGOD TALUK.

3. **SUGANDHI, D/O. MAHALINGA MANIYANI**
   R/AT CHEDIMOOLE ADOOR VILLAGE
   P.O. URDOOR, KASARAGOD TALUK.

4. **SPL. TAHSILDAR (LA) KASARAGOD.**

5. **THE REVENUE DIVISIONAL OFFICER, KASARAGOD.**

6. **COMMISSION OF LAND REVENUE, THIRUVANANTHAPURAM.**

7. **STATE OF KERALA REP.BY**
   SECRETARY REVENUE DEPARTMENT,
   THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.P.N.SANTHOSH
SRI.K.JAYAKUMAR
SRI.P.B.KRISHNAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 22/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP. NO.6898/2000

ORDER ON CMP. 11507/2000 IN OP. NO.6898/2000

DISMISSED

22.10.2007 SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ORDER NO.D.DIS. 19072/73 (AA.74/73) DT. 22.12.83 BEFORE THE REVENUE DIVISIONAL OFFICER, KASARAGOD.

EXT.P2:- COPY OF THE ORDER NO.D.DIS 31792/83. LAR DT. 30.3.88 BEFORE THE BOARD OF REVENUE, (LR), THIRUVANANTHAPURAM.

EXT.P3:- COPY OF THE ORDER NO.D.DIS 21223/97/LR(J) D. DT. 24.1.2000 BEFORE THE COMMISSIONER OF LAND REVENUE, THIRUVANANTHAPURAM.

/TRUE COPY/

P.A. TO JUDGE

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THOTTATHIL B.RADHAKRISHNAN, J.

O.P.No.6898 OF 2000

Dated this the 22nd day of October, 2007

JUDGMENT

Heard.

2. Sri.A.Sarthoki Rao, the predecessor-in-interest of the writ petitioner, filed an appeal against an order of assignment made under the Kerala Land Assignment Act, 1960, in favour of Sri.C.H.Mahalinga Maniyani. That appeal was allowed as per Ext.P1 proceedings of the Revenue Divisional Officer, holding that there was apparent fraud committed in having excluded Rao, who was a serving navy personnel, from the field of choice for assignment, while, certain erasions and overwritings were noticed in the records of assignment, which remains unexplained. The RDO, therefore, set aside the assignment order in favour of Maniyani and directed assignment of the land in favour of Rao. On Maniyani's appeal, that order was interfered with by the Board of Revenue as per Ext.P2, remanding the proceedings of the RDO for detailed fresh

enquiry, after giving due weightage to the relative claims of the revision petition and the respondent. This means that the claim of Rao or his heirs qua the claim of Maniyani has to be considered on the merits as required by the provisions of the Land Assignment Act and the Rules, and assignment need be made if one among them is found entitled for the same. The Board of Revenue rightly set aside the decision of the RDO to the extent it worked as an automatic order in favour of Rao on the striking down of the assignment in favour of Maniyani. The Government, for whatever reasons, have rightly sustained that decision of the Board of Revenue. This means that in terms of Ext.P2 decision of the Board of Revenue, as affirmed by Ext.P3 order of the Government, the RDO has to conduct a fresh enquiry and to decide on the claims of the heirs of i Rao and also the claim of Maniyani in accordance with law.

In the light of what is aforesaid, this writ petition is dismissed, however, directing that the RDO shall complete the proceedings as noticed above within a period of nine months

from the date of receipt of a copy of this judgment, after giving opportunity of pre-decisional hearing to the necessary parties.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.

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THOTTATHIL B. RADHAKRISHNAN, J

O.P.NO.6898 OF 2000

JUDGMENT

22nd OCTOBER, 2007.

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